

written agreement does not provide for such reassignment. However, an employee's separation is not involuntary if, after such a written mobility agreement is added, the employee accepts one reassignment outside his or her commuting area, but subsequently declines another such reassignment.

*Newly appointed* refers to—

(a) The first appointment, regardless of tenure, as an employee of the Federal Government; or

(b) An appointment as an employee of the Federal Government following a break in service of at least 90 days from the candidate's last period of Federal employment, other than—

(1) Employment under the Student Educational Employment Program under § 213.3202;

(2) Employment as a law clerk trainee under § 213.3102(e) of this chapter;

(3) Employment while a student during school vacations under a short-term temporary appointing authority;

(4) Employment under a provisional appointment designated under § 316.403 if the new appointment is permanent and immediately follows the provisional appointment; or

(5) Employment under a temporary appointment that is neither full-time nor the principal employment of the candidate.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509).

*Service agreement* means a written agreement between an agency and a newly appointed employee under which the employee agrees to a specified period of employment with the appointing agency in return for payment of a recruitment bonus.

[56 FR 12838, Mar. 28, 1991, as amended at 57 FR 37398, Aug. 19, 1992; 60 FR 33325, June 28, 1995; 61 FR 3543, Feb. 1, 1996; 64 FR 69181, Dec. 10, 1999]

**§ 575.104 Agency recruitment bonus plans; higher level review and approval; and criteria for payment.**

(a) *Agency recruitment bonus plans.* (1) Before paying a recruitment bonus under this subpart, the head of an agency shall establish a recruitment bonus plan.

(2) A recruitment bonus plan shall include the following elements:

(i) The designation of officials with authority to review and approve payment of recruitment bonuses;

(ii) Criteria that must be met or considered in authorizing bonuses, including criteria for determining the amount of a bonus;

(iii) Procedures for paying bonuses;

(iv) Requirements for service agreements; and

(v) Documentation and record-keeping requirements sufficient to allow reconstruction of the action.

(b) *Higher level review and approval.*

(1) Except as provided in paragraph (b)(2) of this section, each determination to pay a recruitment bonus, including the amount of such bonus, shall be reviewed and approved by an official of the agency who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in the agency.

(2) When necessary to make a timely offer of employment, a higher level official may establish criteria for offering recruitment bonuses in advance and authorize the recommending official to offer a recruitment bonus (in any amount within a pre-established range) to any candidate without further review or approval.

(c) *Criteria for payment.* (1) Each bonus paid under this subpart shall be based on a written determination that, in the absence of such a bonus, the agency would encounter difficulty in filling the position. Such a determination shall be made before the employee actually enters on duty in the position for which he or she was recruited. An agency may target groups of positions that have been difficult to fill in the past or that may be difficult to fill in the future and may make the required written determination to offer a recruitment bonus on a group basis.

(2) In determining whether a recruitment bonus should be paid and in determining the amount of any such payment, an agency shall consider the following factors, as applicable in the case at hand:

(i) The success of recent efforts to recruit candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;

(ii) Recent turnover in similar positions;

(iii) Labor-market factors that may affect the ability of the agency to recruit candidates for similar positions now or in the future;

(iv) Special qualifications needed for the position; and

(v) The practicality of using the superior qualifications appointment authority provided by 5 U.S.C. 5333 and § 531.203(b) of this chapter alone or in combination with a recruitment bonus.

[56 FR 12838, Mar. 28, 1991; 56 FR 14290, Apr. 8, 1991, as amended at 60 FR 33326, June 28, 1995]

#### **§ 575.105 Payment of recruitment bonus.**

A recruitment bonus shall be calculated as a percentage of the employee's annual rate of basic pay (not to exceed 25 percent) and paid as a lump sum. It shall not be considered part of an employee's rate of basic pay for any purpose.

[60 FR 33326, June 28, 1995]

#### **§ 575.106 Service agreement.**

(a) Before a recruitment bonus may be paid, an agency shall require that the employee sign a written service agreement to complete a specified period of employment with the appointing agency (or successor agency in the event of a transfer of function).

(b) The minimum period of employment to be established under a service agreement for a recruitment bonus shall be 6 months.

[60 FR 33326, June 28, 1995]

#### **§ 575.107 Repayment of recruitment bonus.**

(a) Except as provided in paragraph (d) of this section, an employee who

fails to complete the period of employment established under a service agreement shall be indebted to the Federal Government and shall repay the recruitment bonus on a pro rata basis. The amount to be repaid shall be determined by providing credit for each full month of employment completed by the employee under the service agreement.

(b) Failure to complete the period of employment established under a service agreement occurs when the employee's service with the appointing agency terminates before the employee completes the period of employment specified in the service agreement.

(c) Amounts owed by an employee under paragraph (a) of this section shall be recovered from the employee under the agency's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and subpart K of part 550 of this chapter.

(d) Paragraph (a) of this section does not apply when an employee fails to complete a period of employment established under a service agreement because the employee is involuntarily separated.

(e) A right of recovery of an employee's debt under 5 U.S.C. 5514 may be waived in whole or in part by the head of the agency if he or she determines that recovery would be against equity and good conscience or against the public interest.

#### **§ 575.108 Internal monitoring.**

Each agency shall monitor the use of recruitment bonuses to ensure that its recruitment bonus plan conforms to the requirements established under this subpart and that the payment of recruitment bonuses conforms to the criteria established under this subpart.

[60 FR 33326, June 28, 1995]

#### **§ 575.109 Records and reports.**

(a) Each agency shall keep a record of each determination required by § 575.104(c) of this part and make such records available for review upon request by OPM. Each agency shall promptly submit a report of each such determination as a part of its regular submission to OPM's Central Personnel Data File.